

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

CARLOS J. WALLACE,)	
)	
Movant,)	
)	
v.)	No. 1:24-CV-00041-SNLJ
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. For the following reasons, this action will be dismissed.

On March 4, 2024, Movant filed a motion seeking relief under 28 U.S.C. § 2255. ECF No. 1. On March 8, 2024, the Court reviewed the motion and determined it was defective because it was not on the proper form as required by the Local Rules of this Court. ECF No. 2 (citing E.D. Mo. L.R. 2.06(A) (requiring all actions by self-represented litigants to be filed on Court-provided forms)). The Clerk sent Movant the proper form and the Court directed him to resubmit within thirty days, or by April 8, 2024.

Rather than complying with this Court's Order to amend, Movant sought authorization from the United States Court of Appeals for the Eighth Circuit to file a successive § 2255 motion. The Eighth Circuit denied the request for authorization as unnecessary because he had not yet filed his first § 2255 motion. ECF No. 3. A mandate was issued on April 15, 2024. ECF No. 4. Consequently, on April 22, 2024, the Court *sua sponte* granted Movant an additional thirty (30) days, or by May 22, 2024, to file an

amended § 2255 motion on the proper Court form. This Order, however, was twice returned to the Court as undeliverable. ECF Nos. 6 and 7.

Movant sent a letter to the Court, dated May 21, 2024, requesting *in forma pauperis* status and copies of documents from his criminal case. On May 29, 2024, the Court denied his request to proceed *in forma pauperis* because there is no filing fee for a § 2255 motion, mailed him a copy of his docket sheet and criminal Judgment, and explained how he could obtain additional documents from the Court. ECF No. 10. The Court noted his amended § 2255 motion was due on May 22, 2024, but had not yet been filed. Because the Order directing him to file an amended motion was twice returned as undeliverable, the Court *sua sponte* granted him an additional twenty-one (21) days, or until June 20, 2024, to file his amended § 2255 motion on the proper Court form. The Court warned him that failure to comply would result in the dismissal of this action without prejudice and without further notice. To date, he has not filed an amended motion or sought additional time to do so.

Movant was given meaningful notice of what was expected, he was cautioned that his case would be dismissed if he failed to timely comply, and he was given ample additional time to comply. Therefore, this action will be dismissed, without prejudice, due to movant's failure to comply with the Court's May 29, 2024 order and his failure to continue this case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (*per curiam*) (affirming dismissal without prejudice where *pro se* litigant failed to file an

amended pleading despite being cautioned that dismissal could result from failure to do so).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

Dated this 10th day of July, 2024.

A handwritten signature in cursive script, appearing to read "Stephen N. Limbaugh, Jr.", written in dark ink.

STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE